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SEP 30 2005

**OFFICE OF PETITIONS**

In re Application of :  
Glen A. Gordon :  
Application No. 10/749,324 :  
Filed: December 31, 2003 :  
Attorney Docket No. P3245 :  
DECISION DISMISSING PETITION  
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 11, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f). The delay in responding is regretted; however, the petition was just recently referred to the Office of Petitions for consideration.

It is noted that the petition was filed by the former attorney and the address given on the petition differs from address of record. Accordingly, a courtesy copy of this decision is being mailed to the address on the petition. All future correspondence regarding this application will be mailed solely to the address of record.

The petition is **DISMISSED**.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition lacks item (1) above. It is noted that a request under 35 U.S.C. § 122(b)(2)(B)(ii) to rescind the previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was included with the petition on August 11, 2004, and that petitioner states that a Canadian patent application corresponding to the present non-provisional application was inadvertently filed prior to submitting the rescission request. However, the Office cannot make a proper determination of whether or not the application was, in fact, abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) since the filing date of the foreign or international application was not stated.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted; however, no further petition fee is required. The reconsideration request should include a cover letter entitled "Renewed Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f))." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

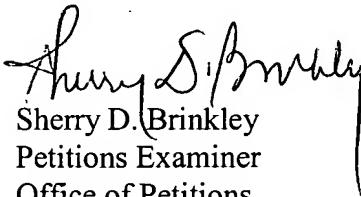
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop PETITION  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: TODD N. HATHAWAY  
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